

## **CHAPTER 11-62 APPENDIX A**

### **INDIVIDUAL AND GENERAL PERMIT STANDARD CONDITIONS**

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Appendix A, Individual and general permit standard conditions

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The following conditions apply to both individual and general permits unless otherwise specified.

"Permittee" refers to a person to whom an individual

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permit or a notice of general permit coverage has been issued.

1. **Duty to comply.** Permittees shall comply with and are subject to §11-62-06(q).
2. **Compliance with sludge standards.** Permittees shall comply with HAR chapter 11-62, subchapter 4.
3. **Compliance with wastewater effluent standards.** Permittees treating wastewater shall comply with §11-62-26 and, if applicable, §11-26-27.
4. **Compliance with water quality standards.** Permittees shall not cause or contribute to any violation of applicable sections of HAR chapter 11-54.
5. **Clean Water Act (CWA) penalties.** The monetary fines and imprisonment terms referred to in 40 CFR §§501.15(b)(3), on CWA §309; 501.15(b)(11)(ii), on false statement, representation, or certification; and §501.15(b)(10), on falsification, tampering with, or rendering inaccurate any monitoring device or method; all apply, in addition to any state penalties.
6. **Signatory and certification requirements.** Each notice of intent, permit application, report, notice, and any information submitted to the director shall be signed and certified as required by §11-62-52.
7. **Duty to reapply.** Permittees shall comply with §11-62-57.04.
8. **Need to halt or reduce activity not a defense.** It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted

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activity in order to maintain compliance with the conditions of this permit.

9. **Duty to mitigate.** Permittees shall comply with §11-62-06(j).
10. **Proper operation and maintenance.** Permittees shall comply with §11-62-06(e).
11. **Permit actions.** This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition.
12. **Property rights.** This permit does not convey any property rights of any sort, or any exclusive privilege.
13. **Duty to provide information.** The permittee shall furnish to the director, within a reasonable time, any information which the director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The permittee shall also furnish to the director, upon request, copies of records required to be kept by this permit.
14. **Inspection and entry.** The permittee shall allow the director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:
  - a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

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- b. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- c. Inspect at reasonable times any facility, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances, parameters, or practices at any location.

### 15. Sampling requirements.

- a. Sampling points. All samples shall be taken at the monitoring points specified in this permit and, unless otherwise specified, before final use, disposal, or discharge. Monitoring points shall not be changed without notification to and the approval of the director. No use, disposal, or discharge is authorized which does not totally pass through the final monitoring point.
- b. Calibration. The permittee shall periodically calibrate and perform maintenance on all monitoring and analytical equipment used to monitor the pollutants, sludge, and other items specified by the director under this permit, at intervals which will ensure the accuracy of measurements, but no less than the manufacturer's recommended intervals or one year intervals (whichever comes first). Records of calibration shall be kept pursuant to section 13(b) of this general permit.

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### 16. Monitoring and recordkeeping.

- a. Monitoring results shall be reported at a frequency specified here or elsewhere in the permit, whichever is greater. The frequency of sampling shall be dependent on the size of the wastewater system, nature and effect of the wastewater, reclaimed water, and wastewater sludge use and disposal practices. At a minimum, the frequency shall be as required by §§11-62-26(a), 11-62-26(c), 11-62-28(a), and subchapter 4.
- b. Representative sampling. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activities listed in §§11-62-26(a), 11-62-26(c), 11-62-28(a), and subchapter 4.

As used in this section, a representative sample means that the content of the sample shall (1) be identical to the content of the substance sampled at the time of the sampling; (2) accurately represent the monitored item (for example, sampling to monitor final effluent quality shall accurately represent that quality, even though the sampling is done upstream of the discharge point); and (3) accurately represent the monitored item for the monitored time period (for example, sampling to represent monthly average effluent flows shall be taken at times and on days that cover significant variations).

Representative sampling may mean including weekends and storms and may mean taking more samples than the minimum number specified elsewhere in the permit. The burden of proving that sampling or monitoring is representative shall be on the permittee.

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- c. Record retention. The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least five (5) years from the date of the sample, measurement, report or application. This period may be extended by request of the director of health at any time.
- d. Records' content. Records of monitoring information shall include:
  - (1) The date, exact place, and time of sampling or measurements;
  - (2) The name of individual(s) who performed the sampling or measurements;
  - (3) The date(s) analyses were performed;
  - (4) The name of individual(s) who performed the analyses;
  - (5) The analytical techniques or methods used and if available, references and written procedures for these techniques or methods; and
  - (6) The results of such analyses, including bench sheets, instrument readouts, etc., used to determine these results.
- e. Monitoring procedures. Unless other procedures have been specified in this permit, monitoring shall be conducted according to test procedures approved under 40 CFR Part 136 or, in the case of sludge use or disposal, approved under 40 CFR Part 503.

### **17. Notice requirements.**

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- a. Planned changes. The permittee shall give notice to the director as soon as possible of any planned physical alterations or additions to the permitted facility, or significant changes planned in the permittee's sludge use or disposal practice, where such alterations, additions, or changes may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional disposal sites not reported during the permit application process or not reported pursuant to an approved land application plan.
- b. Anticipated noncompliance. The permittee shall give advance notice to the director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.
- c. Transfers. This permit is not transferable to any person except after notice to the director. The director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the CWA.
- d. Other noncompliance reporting. The permittee shall report all instances of noncompliance. Reports of noncompliance shall if applicable follow the spill protocol of appendix C otherwise shall be submitted with the permittee's next self monitoring report or earlier if requested by the director or if required by an applicable standard for wastewater sludge use or disposal or condition of this permit.

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- e. Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the director, it shall promptly submit such facts or information.

### 18. Reopener clause.

- a. If the standards for wastewater and wastewater sludge applicable to the permittee's use, disposal, or discharge method are promulgated under the Clean Water Act, the Hawaii Revised Statutes, or the Hawaii Administrative Rules before the expiration date of this permit, and those standards are more stringent than the wastewater or wastewater sludge pollutant limits or acceptable management practices authorized in this permit, or controls a pollutant or practice not limited in this permit, this permit may be promptly modified or revoked and reissued to conform to the standards for wastewater or wastewater sludge use, disposal, or discharge by no later than the compliance deadline specified in the regulations establishing those standards, whether or not this permit has been modified or revoked and reissued.
- b. This permit shall be modified or revoked and reissued at any time if, on the basis of any new data, the director determines that continued wastewater or wastewater sludge use, disposal, or discharge may cause unreasonable degradation of the environment.
- c. The permittee shall comply with new standards for wastewater sludge use or disposal adopted in 40 CFR 503 during the term of the permit, if they are more



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stringent than the terms of the permit and chapter 11-62, even if this permit has not yet been modified to incorporate the standards.

19. **Transfers by modification.** Except as provided in condition 20 of these standard conditions, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued to identify the new permittee and incorporate such other requirements as may be necessary to assure compliance with the CWA.
20. **Automatic transfers.** As an alternative to transfers under condition 19 of these standard conditions, the director may authorize automatic transfer of any permit issued under this rule to a new permittee if:
  - a. The current permittee notifies the director at least 30 days in advance of the proposed transfer date in condition 20.c. of these standard conditions;
  - b. The notice includes a written agreement between the existing and new permittee containing a specific date for transfer of permit responsibility, coverage, and liability between them; and
  - c. The director does not notify the existing permittee and the proposed new permittee of the director's intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the date specified in the agreement of condition 20.b of these standard conditions.
21. **Minor modification of permits.** Upon the consent of the permittee, the director may modify a permit to make the corrections or allowances for

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changes in the permitted activity listed in this section without following the procedures of §11-62-57.02. Any permit modification not processed as a minor modification under this section must be made for cause and with draft permit and public notice as required. Minor modifications may only:

- a. Correct typographical errors;
- b. Require more frequent monitoring or reporting by the permittee;
- c. Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; and
- d. Allow for a change in ownership or operational control of a facility where the director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the director.

- 22. **Modification or revocation and reissuance of permits.** Permittees shall comply with and are subject to §11-62-57.02, except for minor modifications.
- 23. **Termination of permits.** Permittees are subject to §11-62-57.03 and general permittees are also subject to §11-62-55.03.
- 24. **Availability of reports.** Except for data determined to be confidential under HRS §342D-14, all reports prepared in accordance with the terms

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of this permit shall be available for public inspection at the offices of the director. As required by this rule, permit applications, permits, and effluent and wastewater sludge data shall not be considered confidential.

25. **Civil and criminal liability.** Nothing in this permit shall be construed to relieve the permittee from civil or criminal penalties for noncompliance.
26. **State law.** Nothing in this permit shall be constructed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable state law or regulation.
27. **Severability.** The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and remainder of this permit, shall not be affected thereby.